

Labor and Industries Summary Report for 2002 and 2003

Two divisions in the Department of Labor and Industries (L&I) are involved in pesticide-related activities: Washington Industrial Safety and Health Act (WISHA) Services Division, and Insurance Services Division, Claims Administration Program. WISHA governs pesticide use by creating and enforcing workplace safety and health regulations and providing employers with free consultations on safety and health regulations. The Claims Administration Program provides compensation to workers who become ill or injured on the job.

WISHA Services Division

To enforce safety and health in the workplace, WISHA staff may issue citations requiring employers to implement changes in the workplace. WISHA citations can be categorized as “serious” or “general”. A serious violation presents a “substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, in the workplace...”. A general violation is a situation where the “most serious injury, illness or disease that would be likely to result from a hazardous condition cannot be reasonably predicted to cause death or serious physical harm to exposed employees, but does have a direct and immediate relationship to their safety and health”. Both categories of citations require employers to implement changes in the workplace. Serious violations have penalties assigned and follow-up inspections may be performed to assure compliance.

In 2002, 55 (86%) of the 64 pesticide-related safety and health inspections conducted by WISHA regional compliance staff were located in eastern Washington and nine were located in western Washington. In 2003, 18 (82%) of the 22 inspections involving pesticide use were located in eastern Washington and four were located in western Washington. These inspections occurred in both agricultural and nonagricultural environments.

In 2002, 59 percent of the inspections involved orchards and, in 2003, 27 percent involved orchards. In 2002, the “Other” workplace classification included one each of the following: veterinarian, golf course, school, mushroom farm, property management firm, crop services, forestry services and a logging company. In 2003, the “Other” workplaces included a poultry farm and a forestry support company. The type of workplace is shown in Table 44 for 2002 and 2003.

Table 44. WISHA Workplace Safety and Health Inspections, 2002 and 2003		
Workplace Type	2002	2003
Orchard	35 (55%)	6 (27%)
Vineyard	7 (11%)	2 (9%)
Other farm	6 (9%)	3 (14%)
Nursery	6 (9%)	3 (14%)
Farm supplies	3 (5%)	6 (27%)
Other	7 (11%)	2 (9%)
Total	64 (100%)	22 (100%)

The number of pesticide-related inspections increased in 2002 and decreased in 2003 (Table 45) because of the following factors:

- 1) L&I conducted an emphasis program targeting agriculture and pesticide use in 2002,
- 2) Personnel transitions temporarily reduced L&I staff in Region 5 during 2003, and
- 3) L&I temporarily suspended agricultural inspections in 2003 due to a lawsuit brought against the department concerning the inspector's right-of-entry to agricultural workplaces.

Table 45. WISHA Workplace Safety and Health Inspections, 1999 - 2003

1999	37
2000	34
2001	27
2002	64
2003	22

In 2002, 11 of the 64 were the result of referrals from state agencies, health care providers and others. Seven inspections were initiated in response to employee or employee representative complaints. Thirty-three were scheduled inspections identified through the scheduling list and nine were follow-up inspections.

In 2003, five of the 22 safety and health inspections were the result of referrals from state agencies, health care providers and others. Seven inspections were initiated in response to employee or employee representative complaints. Nine were scheduled inspections identified through the scheduling list and one was a follow-up inspection.

Of the 64 inspections in 2002, L&I issued citations to the employer in 50 cases. Twenty-three citations resulted in monetary penalties of \$14,660 assessed for 49 serious violations, one repeat serious citation, and one repeat general citation. General citations with no penalties were issued in 27 of the inspections. No citations were issued to the employer in 14 inspections.

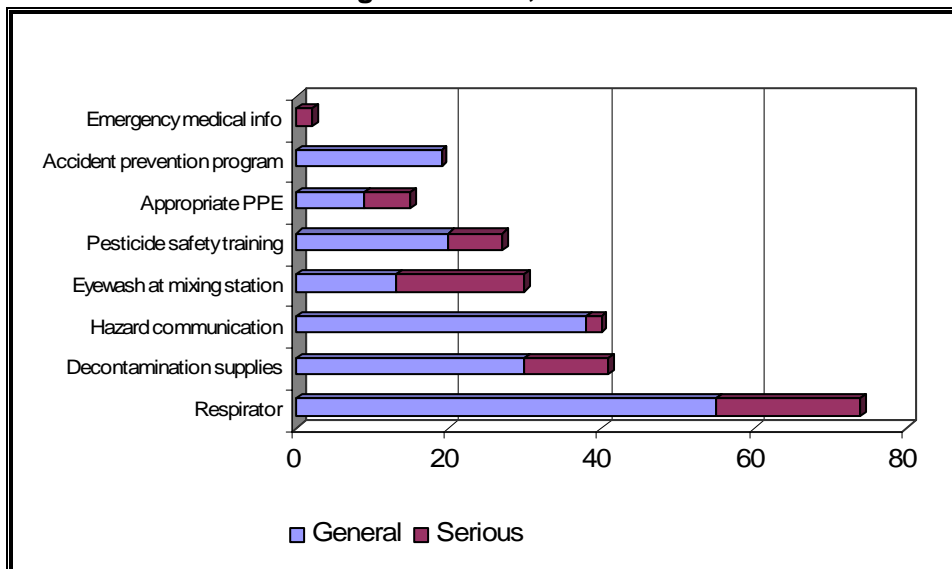
Of the 22 inspections in 2003, eight resulted in monetary penalties of \$7,490 for 18 serious violations. General citations with no penalties were issued in 11 inspections. No citations were issued in three inspections.

The most frequent type of serious and general WISHA violations cited in 2002 and 2003 were:

- Respirator deficiencies included: no respirator program, improper storage or cleaning of respirators, no medical evaluations of worker's ability to wear a respirator, no respirator fit-testing.
- Lack of soap, water, towels, change of clothes, or other decontamination supplies/equipment.
- Hazard communication deficiencies in safety programs including employee training and chemical labeling.
- Plumbed or portable eyewash was not provided for a pesticide-mixing site.
- Employee training about pesticides and their hazards.
- Deficiencies in appropriate personal protective equipment.
- Accident Prevention Program deficiencies.
- Not providing medical information as required.

Categories of WISHA inspections with general and serious violations involving pesticides for 2002 and 2003 are summarized in Figure 25.

Figure 25. WISHA Inspections with General and Serious Violations Involving Pesticides, 2002 and 2003



The following are examples of WISHA inspections involving violations:

A worker applying an herbicide combination of Weedar 64 (with 2,4-D), Roundup, and Activator 90 was sprayed when a pressure hose ruptured on the spray rig. The ingredient 2,4-D is very corrosive, can be absorbed through the skin, and can be fatal. The employer did not provide the personal protective equipment specified on the label. The WISHA inspection was prompted by a DOH referral. The inspection resulted in a repeat serious citation and a \$1,000 penalty for the employer.

During a WISHA inspection resulting from a complaint, employees were observed using Sevin and Guthion Solupack. The inspection resulted in 14 citations including: inadequate accident prevention program, no water for eye flushing, routine an emergency washing not provided, no eyewash, no decontamination supplies, no soap and towels in any location, no medical evaluations or equipment fit tests, no records of pesticide applications, and inadequate written hazard communication and respiratory protection programs. The five serious citations resulted in a \$2,600 penalty for the employer.

Six workers were affected by ULV Malathion drift during spraying from a helicopter on an adjacent cherry orchard. Malathion is an organophosphate pesticide and has a 12 hour reentry interval. It can be absorbed through the skin and exposure can be fatal. The six employees could feel the chemical mist on their bodies and smelled a strong chemical odor. The WISHA inspection was prompted by a call from the employer. The employer was issued nine general violations. The employer was not assessed a penalty. Department of Health also investigated.

L&I Claims Insurance Services Division, Claims Administration Program

The Insurance Services Division, Claims Administration Program processes worker claims initiated by on-the-job injuries and illnesses including claims involving pesticides. In 2002, the Claims Administration Program received 109 claims where the injury or illness initially appeared to be related to pesticide exposure. In 2003, the Claims Administration Program received 133 claims where the injury or illness initially appeared to be related to a pesticide exposure (Table 46). In 2002, the number of pesticide-related claims decreased by 16 percent from 2001 and increased by 18 percent in 2003. Overall, the number of pesticide-related claims has decreased in the past five years. L&I accepts or rejects a claim based on whether the illness is work-related.

Compensation is determined in accordance with the following definitions:

- **Medical Only/Non-Compensable Claim:** A worker experienced symptoms that he/she believes occurred from exposure on-the-job and seeks medical evaluation. The physician finds the symptoms related to the exposure and there is objective evidence of injury. Therefore, the claim is allowed and medical evaluation and any follow-up medical care/treatment costs are paid. The employee misses less than three days of work. These lost workdays are not reimbursed to the employee.
- **Time Loss/Compensable Claim:** A worker has an allowable claim and misses more than three days of work immediately following an exposure on the job. The worker is paid a portion of salary while unable to work. All related medical costs are covered.
- **Rejected Claims:** Initial diagnostic and medical evaluation costs are covered but the claim is rejected because objective evidence is lacking to relate symptoms to the workplace exposure. Claims may be rejected because symptoms have resolved by the time treatment is obtained, there is no objective evidence of injury, the worker may not yet have symptoms of illness from the exposure, or exposure cannot be confirmed or documented. A rejected status prevents the worker from reopening a claim based on original symptoms, but illness claims may be reopened up to two years after the onset of delayed symptoms. Costs of initial medical visits are usually paid.
- **Pending:** Additional information is being collected on the claim before a determination can be made.
- **Kept on Salary:** The employer elects to pay the claimant's salary instead of L&I paying time loss payments while the employee is recovering from an injury or illness.

Table 46. Status of L&I Claims Initially Related to Pesticides, 1999 - 2003					
	1999	2000	2001	2002	2003
Medical Only/noncompensable	107	115	75	79	83
Time loss/ compensable	11	11	8	4	4
Rejected	63	52	45	26	45
Pending/Unknown	1	2	--	--	1
Kept on salary	1	--	1	--	--
Total	183	180	129	109	133

Claims categorized as *Medical only* and *Time loss* are compensated as work-related injuries. Of the 109 claims in 2002, 83 (76%) were compensated by L&I as being work-related injuries. Of the 133 claims in 2003, 87 (65%) were compensated by L&I as being work-related injuries. As

noted in the **Rejected Claims** definition above, most rejected claims were compensated for initial diagnostic and medical evaluations costs even when evidence was lacking to relate the symptoms to the work place.

Claims involving pesticides are referred to DOH to investigate whether the illness is specifically pesticide-related. This means that a claim involving an eye injury from a fertilizer could be accepted as work-related by L&I and classified as unrelated to pesticide exposure by DOH.

In 2002, DOH investigated referred claims and classified 66 of the 109 claims as having signs and/or symptoms definitely, probably, or possibly (DPP) related to pesticide exposure. Of the remaining claims, there was insufficient documentation to associate the illness with the suspected pesticide exposure for 19 claims. The Department found 24 of the claims suspicious or unlikely to be related to a pesticide exposure (See **Relationship Classifications**, Appendix B).

In 2002, 37 (56%) of the 66 claimants classified as DPP by DOH were exposed while working in agriculture and 29 (44%) were working in landscaping, construction, pest control, office, and other non-agricultural settings. Fourteen of the 29 non-agriculture workers were exposed to spills or were directly sprayed by the pesticide. Of the 37 agricultural workers, 25 (68%) claims involved workers in the fruit industry.

In 2003, DOH classified 82 of the 133 claims as DPP. There was insufficient documentation to associate the illness with the suspect pesticide for 29 claims. DOH found 22 of the claims suspicious or unlikely to be related to pesticide exposure.

In 2003, 54 (66%) of the 82 claimants classified as DPP by DOH were exposed while working in agriculture and 28 (34%) were working in landscaping, retail, food service, office and other non-agricultural settings. Fourteen of the 28 non-agriculture workers were exposed to spills or were directly sprayed by the pesticide. Of the 54 agricultural workers, 36 (67%) claims involved workers in the fruit industry.

Occupational exposures are described in detail in the DOH Section under **Occupational Cases of Pesticide-Related Illness**. The following L&I claim and DOH investigation summaries illustrate the type of occupational incidents that can occur in the agricultural environment:

An applicator was loading chemicals when the container slipped and the contents splashed in his face. His goggles had fallen off when the barrel fell. He went to the Emergency Room for eye treatment. DOH classification: Probable. Pesticide: Gramoxone Extra herbicide.

An orchard worker developed eye symptoms after he rubbed his eyes while hanging pheromone strips. He had been given goggles but had chosen not to wear them. He sought medical treatment the same day. DOH classification: Definite. Pesticide: Isomate-C Pheromone.

The following L&I claim and DOH investigation summary illustrates the type of occupational incident that can occur in the non-agricultural environment:

A motel maintenance employee set off an aerosol insect fogger in a motel room. The fogger triggered the smoke alarm and he re-entered the room to remove the fogger. He sought medical treatment that day for eye and respiratory irritation and vomiting. DOH classification: Possible. Pesticide: Cypermethrin